IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

CRP.No. 1019 of 2006()

I.A.1077/06 IN AS.250/2006 of DISTRICT COURT, KOTTAYAM
OS.202/2005 of MUNSIFF COURT, ETTUMANOOR
.....

REVN. PETITIONER: APPELLANT/DEFENDANT
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1. THE PRINCIPAL,
MANGALAM COLLEGE OF ENGINEERING,
VETTIMUGAL P.O., ETTUMANOOR.

2. MANGALAM EDUCATIONAL SOCIETY,
KOTTAYAM.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENTS: PLAINTIFF

RONY M.ABRAHAM, PLAMPARAMBIL HOUSE,
CHANNANIKKADU KARA, PANACHIKKAD VILLAGE,
KOTTAYAM TALUK.

BY //

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO.3617/06 IN CRP 1019/06

DISMISSED

15/12/2006

SD/-M.SASIDHARAN NAMBIAR,JUDGE.

//True copy//

PA to Judge.

M.SASIDHARAN NAMBIAR,J.

C.R.P .NO. 1019 OF 2006

Dated 15th December 2006

O R D E R

Petitioners are appellants in A.S.250/06 on the file of District Judge, Kottayam. Respondent is plaintiff. A decree for realisation of money was granted in favour of respondent by Munsiff court, Kottayam in O.S.202/05. It is challenged in A.S.250/06. Appellant filed I.A.1077/06 an application under Order XLI Rule 5(1) of Code of Civil Procedure to grant an order of stay of execution of the decree till disposal of suit. Under impugned order learned District Judge granted an order of stay on furnishing security for the decree amount and cost within two months. The order is challenged in this revision petition. Argument of learned counsel appearing for petitioner was that they have a valid case in the appeal and therefore learned District Judge should not have directed appellants to furnish security.

2. Sub Rule 1 of Rule 5 of Order XLI enables the appellate court to grant an order of stay of

execution of of the decree appealed against. But an order of stay under sub Rule 1 could be granted only on satisfying the conditions provided under Sub Rule 3. Under sub Rule 3 court granting an order of stay shall be satisfied that substantial loss may result to the party applying for stay of execution, unless the order is granted and application has been made without any reasonable delay and security has been given by applicant for the due performance of such decree or order as ultimately be binding upon him. Impugned order was passed in conformity of clause (c) of sub Rule 3 of Rule 5 of Order XLI of the Code. It is perfectly legal and correct and warrants no interference.

Revision petition dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.